

UNITED STATES OF AMERICA and
THE STATE OF INDIANA,

Plaintiffs,

v.

MARATHON OIL COMPANY,
MARATHON ASHLAND PIPE LINE LLC,

Defendants.

The United States of America (the “United States”), by authority of the Attorney General of the United States and through the undersigned attorneys, acting at the request and on behalf of the Secretary of the United States Department of the Interior (“DOI”), and the State of Indiana (the “State”), on behalf of the Indiana Department of Environmental Management (“IDEM”) and the Indiana Department of Natural Resources (“IDNR”), file this complaint and allege as follows:

1. This is a civil action brought pursuant to the Oil Pollution Act ("OPA"), 33 U.S.C. § 2701 *et seq.*, and the Clean Water Act ("CWA") 33 U.S.C. § 1251 *et seq.*, for natural resource damages and the costs of assessment thereof arising out of discharges, or threatened discharges, of oil into or upon the navigable waters of the United States and the State of Indiana, or adjoining shorelines.

2. The oil spills at issue in this action occurred from pipelines owned and operated by the Defendants in and around Rosedale, Catlin, and Daylight, Indiana on August 24, 1997, March 30, 1999, and April 7, 1999, respectively. The United States, through DOI and the U.S. Fish and Wildlife Service, and the State, through IDEM and IDNR, are co-trustees for natural resources at and around the spill locations.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331, 1345, 1367 and 33 U.S.C. §§ 1319, 1321, and 2717(b).

4. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and (c) and 33 U.S.C. § 2717(b), because this is the judicial district in which the defendant does business and in which the discharges of oil occurred.

DEFENDANTS

5. Defendant Marathon Oil Company ("Marathon") is a corporation organized under the laws of the State of Ohio. Defendant Marathon Ashland Pipe Line LLC ("Marathon Ashland") is a corporation organized under the laws of the State of Delaware.

STATUTORY BACKGROUND

6. OPA Section 1002(a), 33 U.S.C. § 2702(a), provides in relevant part:

[E]ach responsible party for a . . . facility from which oil is discharged . . . , into or upon the navigable waters or adjoining shorelines . . . is liable for the removal costs and damages specified in subsection (b) that result from such incident.

7. Pursuant to OPA Section 1002(b)(2)(A), 33 U.S.C. § 2702(b)(2)(A), such damages include: "[d]amages for injury to, destruction of, loss of, or loss of use of, natural resources, including the reasonable costs of assessing the damage"

8. Pursuant to OPA Section 1006(a)(1) and (2), 33 U.S.C. § 2706(a)(1) and (2),

liability is to the United States and the affected State for damages to natural resources "belonging to, managed by, controlled by, or appertaining to the United States" . . . [or] to any State"

9. CWA Section 311(b)(3), 33 U.S.C. § 1321(b)(3), provides in relevant part:

The discharge of oil or hazardous substances (i) into or upon the navigable waters of the United States, adjoining shorelines . . . or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States . . . in such quantities as may be harmful as determined by the President . . . is prohibited.

10. Pursuant to CWA Section 311(f)(2), 33 U.S.C. § 1321(f)(2), liability is to the United States and the State of Indiana for the actual costs incurred in the removal of oil discharged from an onshore facility in Indiana in violation of Section 311(b)(3).

11. Pursuant to CWA Section 311(f)(4) and (5), 33 U.S.C. § 1321(f)(4) and (5), such costs of removal of oil include the costs incurred by the United States and the State of Indiana, as natural resource trustees, in the restoration or replacement of natural resources damaged or destroyed as a result of oil discharged in violation of Section 311(b)(3).

GENERAL ALLEGATIONS

12. On August 24, 1997, March 30, 1999, and August 7, 1999, pipelines owned by Defendants Marathon and Marathon Ashland discharged oil or other petroleum products into or upon the navigable waters of the United States or adjoining shorelines (the "Spills").

13. The August 24, 1997 spill discharged approximately 500,000 gallons of oil into a soybean field in the flood plain of Little Raccoon Creek, Parke County, Indiana, creating the threat of a discharge into the Creek, and impacting several acres of riparian wetland habitat and causing wildlife mortality and injury.

14. The March 30, 1999 spill discharged approximately 1500 barrels of diesel fuel, several thousand gallons of which entered Little Raccoon Creek, Parke County, Indiana.

15. The April 7, 1999 spill discharged approximately 250 barrels of crude oil which entered Bluegrass Creek, Parke County, Indiana.

16. Pursuant to various statutes which include, but are not limited to, the Oil Pollution Act ("OPA"), 33 U.S.C. § 2701 *et seq.*, and the Clean Water Act ("CWA") 33 U.S.C. § 1251 *et seq.*, the DOI, IDEM, and IDNR are trustees for certain natural resources belonging to, managed by, controlled by, or appertaining to the United States and the State of Indiana that were injured, destroyed, or lost as a result of the Spills.

17. Federal and State trust resources impacted by the Spills include migratory birds and their habitat, aquatic life, and botanical resources.

FIRST CLAIM FOR RELIEF
NATURAL RESOURCE DAMAGES UNDER THE OPA

18. Paragraphs 1-17 are realleged and incorporated herein by reference.

19. The Marathon and Marathon Ashland pipelines from which oil or other petroleum products were discharged each constitutes a "facility" within the meaning of Section 1001(9) of OPA, 33 U.S.C. § 2701(9).

20. The diesel fuel discharged on March 30, 1999 constitutes "oil" within the meaning of Section 1001(23) of OPA, 33 U.S.C. § 2701(7).

21. Each of the Spills referenced in Paragraph 12 is a "discharge" of oil within the meaning of Section 1001(7) of OPA, 33 U.S.C. § 2701(7).

22. Little Racoon Creek and Bluegrass Creek and the wetlands adjoining them are "navigable waters of the United States" within the meaning of Section 1001(21) of OPA, 33 U.S.C. § 2701(21).

23. Each Spill was a discharge of oil into or upon the navigable waters of the United

States, or onto adjoining shorelines. Each spill also created the threat of a discharge of oil into or upon the navigable waters of the United States, or onto adjoining shorelines.

24. Marathon and Marathon Ashland are each a "responsible party" within the meaning of Section 1001(32)(B) of OPA, 33 U.S.C. § 2701(32)(B).

25. The wildlife and biota described in Paragraph 17 are "natural resources" within the meaning of Section 1001(20) of OPA, 33 U.S.C. § 2701(20).

26. Natural resources held in trust by the United States and the State of Indiana have been injured, destroyed, or lost as a result of the Spills, within the meaning of OPA Section 1002(b)(2), 33 U.S.C. § 2702(b)(2). As a further result of the Spills, the public use and enjoyment of such resources have been injured or impaired.

27. Pursuant to OPA Sections 1002 and 1006(d)(1), 33 U.S.C. §§ 2702 and 2706(d)(1), Marathon and Marathon Ashland are liable for natural resource damages resulting from the spills, including the cost of restoring, rehabilitating, replacing, or acquiring the equivalent of the damaged natural resources, for the diminution in value of those natural resources pending restoration, and for the cost of assessing those damages.

SECOND CLAIM FOR RELIEF NATURAL RESOURCE DAMAGES UNDER THE CWA

28. Paragraphs 1-27 are realleged and incorporated herein by reference.

29. At the time of the Spills, each pipeline where the Spills occurred was an "onshore facility" within the meaning of CWA Section 311(a)(10), 33 U.S.C. § 1321(a)(10).

30. At the time of the Spills, Marathon and Marathon Ashland were the owners or operators of the pipelines within the meaning of CWA Section 311(f)(2), 33 U.S.C. § 1321(f)(2).

31. Little Racoon Creek and Bluegrass Creek are navigable waters of the United

States within the meaning of CWA Section 502(7), 33 U.S.C. § 1362(7).

32. Each of the Spills is a discharge of "oil" within the meaning of CWA Section 311(a)(1), 33 U.S.C. § 1321(a)(1).

33. Each of the Spills was in a quantity determined to be harmful within the meaning of CWA Section 311(b)(3), 33 U.S.C. § 1321(b)(3).

34. The Spills injured, destroyed, or otherwise affected natural resources belonging to, appertaining to, or under the exclusive management of the United States and the State of Indiana, within the meaning of CWA Section 311(b)(3), 33 U.S.C. § 1321(b)(3).

35. Pursuant to CWA Section 311(f)(2), 33 U.S.C. § 1321(f)(2), Marathon and Marathon Ashland are liable to the United States and the State of Indiana for the actual costs incurred under 33 U.S.C. § 1321(c) in the removal of oil discharged as a result of the Spills.

36. Pursuant to CWA Section 311(f)(4) and (5), 33 U.S.C. § 1321(f)(4) and (5), Marathon and Marathon Ashland are liable to the United States and the State of Indiana for natural resource damages resulting from the spills, including the costs and expenses incurred or to be incurred for the restoration, replacement, rehabilitation, and acquisition of equivalent natural resources injured or destroyed by the Spills, the diminution in value and loss of use of those natural resources, and the costs to assess these damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, the United States of America and the State of Indiana, respectfully request that this Court:

1. Enter judgment in favor of the United States and the State, and against the Defendants, for all damages for injury to, destruction of, or loss of natural resources that have

resulted from the Spills, as well as the costs incurred by the United States and the State associated with the spills;

- 2 Award the United States and the State their costs of this action; and
3. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

FOR THE UNITED STATES OF AMERICA

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